

MELINDA HAAG (CABN 132612)
United States Attorney
THOMAS MOORE (ALBN 4305-O78T)
Chief, Tax Division
MICHAEL G. PITMAN (DCBN 484164)
Assistant United States Attorney, Tax Division
450 Golden Gate Ave., Box 36055
San Francisco, CA 94102
Telephone: (415) 436-6475
Facsimile: (415) 436-7009
Email: michael.pitman@usdoj.gov

Attorneys for the United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Hiroaki Morimoto & Marjorie Morimoto,

Plaintiffs,

v.

United State of America,

Defendant.

Case No. 3:13-cv-05073-MEJ

STIPULATION AND ~~[PROPOSED]~~
JUDGMENT

Plaintiffs Hiroaki Morimoto and Marjorie Morimoto (“Plaintiffs”), and Defendant the United States of America (“United States”), by and through its undersigned counsel, hereby stipulate and agree as follows:

1. This Stipulation is entered into by and between all parties to this matter.
2. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1346(a)(1) and 26 U.S.C. § 7422.
3. Venue is proper in the Northern District of California pursuant to 28 U.S.C. § 1402(a)(2).

1 4. The parties hereby stipulate and respectfully request that the Court enter final
2 judgment in this matter as follows:

3 a. Plaintiffs experienced a deductible theft loss in the 2009 tax year in the
4 amount of \$347,201.

5 b. Final judgment may be entered in favor of Plaintiffs on Counts One, Two,
6 and Three of the Complaint for Refund, filed on October 30, 2013 (Doc. # 1), as follows:
7 Plaintiffs are entitled to federal income tax overpayments in the amounts of \$5,664, \$8,926, and
8 \$19,572 for the 2009, 2008 and 2007 tax years, respectively.

9 c. Final judgment may be entered in favor of the United States on Counts
10 Four, Five, and Six of the Complaint for Refund, filed on October 30, 2013 (Doc. # 1) as
11 follows: Plaintiffs Hiroaki Morimoto and Marjorie Morimoto are not entitled to any refund for
12 the 2004, 2005, or 2006 tax years.

13 d. Any portion of the deductible theft loss Plaintiffs experienced in the 2009
14 tax year that is not consumed by the overpayments discussed in paragraph 4b, above, may be
15 carried forward to offset income for tax years subsequent to 2009, as provided by law.

16 A Proposed Judgment is filed herewith for the Court's convenience. Upon entry of the
17 attached Proposed Judgment, this matter may be dismissed with prejudice.

1 Respectfully submitted this __ day of February 2015,

2 MELINDA HAAG
3 United States Attorney

4 MICHAEL G. PITMAN
5 Assistant United States Attorney, Tax Division
6 Attorneys for the United States of America

7 
8 DASHIELL SHAPIRO
9 ROBERT WARREN WOOD
10 Wood LLP
11 333 Sacramento Street
12 San Francisco, CA 94111
13 415-834-1800
14 Fax: 415-834-1888
15 shapiro@woodllp.com
16 wood@woodllp.com

17 Attorneys for Hiroaki Morimoto
18 and Marjorie Morimoto

19 [PROPOSED] JUDGMENT

20 Pursuant to the Stipulation submitted by Plaintiffs Hiroaki Morimoto and Marjorie
21 Morimoto, and Defendant the United States of America ("United States"), and for good cause
22 shown therein:

23 IT IS ORDERED AND ADJUDGED that Plaintiffs Hiroaki Morimoto and Marjorie
24 Morimoto experienced a deductible theft loss in the 2009 tax year in the amount of \$347,201.

IT IS FURTHER ORDERED AND ADJUDGED that final judgment is entered in favor
of Plaintiffs Hiroaki Morimoto and Marjorie Morimoto, on Counts One, Two, and Three of the
Complaint for Refund, filed on October 30, 2013 (Doc. # 1), as follows: Plaintiffs Hiroaki

1 Respectfully submitted this 27th day of February 2015,

2 MELINDA HAAG
United States Attorney

3 s/ Michael G. Pitman
4 MICHAEL G. PITMAN
Assistant United States Attorney, Tax Division

5 Attorneys for the United States of America

6
7
8

DASHIELL SHAPIRO
ROBERT WARREN WOOD
9 Wood LLP
333 Sacramento Street
10 San Francisco, CA 94111
415-834-1800
11 Fax: 415-834-1888
shapiro@woodllp.com
12 wood@woodllp.com

13 Attorneys for Hiroaki Morimoto
and Marjorie Morimoto

14
15 ~~[PROPOSED]~~ JUDGMENT

16 Pursuant to the Stipulation submitted by Plaintiffs Hiroaki Morimoto and Marjorie
17 Morimoto, and Defendant the United States of America ("United States"), and for good cause
18 shown therein:

19 IT IS ORDERED AND ADJUDGED that Plaintiffs Hiroaki Morimoto and Marjorie
20 Morimoto experienced a deductible theft loss in the 2009 tax year in the amount of \$347,201.

21 IT IS FURTHER ORDERED AND ADJUDGED that final judgment is entered in favor
22 of Plaintiffs Hiroaki Morimoto and Marjorie Morimoto, on Counts One, Two, and Three of the
23 Complaint for Refund, filed on October 30, 2013 (Doc. # 1), as follows: Plaintiffs Hiroaki
24

1 Morimoto and Marjorie Morimoto are entitled to federal income tax overpayments in the
2 amounts of \$5,664, \$8,926, and \$19,572 for the 2009, 2008 and 2007 tax years, respectively.

3 IT IS FURTHER ORDERED AND ADJUDGED that final judgment is entered in favor
4 of the United States on Counts Four, Five, and Six of the Complaint for Refund, filed on October
5 30, 2013 (Doc. # 1) as follows: Plaintiffs Hiroaki Morimoto and Marjorie Morimoto are not
6 entitled to any refund for the 2004, 2005, or 2006 tax years.

7 IT IS FURTHER ORDERED AND ADJUDGED that any portion of the deductible theft
8 loss Plaintiffs Hiroaki Morimoto and Marjorie Morimoto experienced in the 2009 tax year that is
9 not consumed by the overpayments for the 2009, 2008 and 2007 tax years, discussed above, may
10 be carried forward to offset income for tax years subsequent to 2009, as provided by law.

11 Each party shall bear their own attorneys' fees and costs.

12
13 SO ORDERED this 2nd day of March, 2015.

14
15 
16 THE HONORABLE MARIA-ELENA JAMES
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24